

Message Text

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PAGE 01 STATE 099388
ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 AID-05 CEA-01 CIAE-00
COME-00 EB-07 EA-07 FRB-03 INR-07 IO-13 NEA-10
NSAE-00 OPIC-03 SP-02 TRSE-00 LAB-04 EPG-02
SIL-01 AGRE-00 OMB-01 OIC-02 FTC-01 NSC-05 SSO-00
NSCE-00 INRE-00 USIE-00 /090 R

DRAFTED BY L/EB:SBOND/RW
APPROVED BY EB/IFD/ODF:JWINDER
L - MFELDMAN (SUBSTANCE)
EB/IFD/OIA - RKAUZLARICH
TREASURY - DPRITCHETT
EB/IFD/OIA - WLOCKWOOD (SUBSTANCE)
EB/ORF/FSE:LRAICHT (SUBS)
EUR/RPE;PLAASE (SUBS)
-----030007Z 100670 /73
O 022333Z MAY 77
FM SECSTATE WASHDC
TO USMISSION OECD PARIS IMMEDIATE

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E.O. 11652:N/A

TAGS:CIEC, OECD, EFIN

SUBJECT: CIEC DEVELOPMENT COMMISSION - EEC PROPOSAL ON TNCS

REF: OECD 12596

PASS DAVID GANTZ, CIEC DELEGATION

1. EEC PROPOSAL CONTAINED IN REFTEL PRESENTS SEVERAL
PROBLEMS WHICH MUST BE RESOLVED BEFORE US DEL CAN
ASSOCIATE ITSELF WITH TEXT. FOLLOWING ARE MOST IMPORTANT
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PAGE 02 STATE 099388

POINTS, KEYED TO PARAGRAPHS OF TEXT AS SET OUT IN REFTEL.

(A) IN FIRST PARAGRAPH, THIRD LINE, PHRASE "INTERNATIONAL
ARRANGEMENTS FOR THE OPERATIONS OF TNCS" SHOULD READ
"INTERNATIONAL ARRANGEMENTS IN REGARD TO (ALTERNATIVE
PHRASE "RELATING TO) THE OPERATIONS OF TNCS." POINT TO
MAKE TO EC IS THAT DEVELOPED COUNTRIES IN UN EXERCISE ON

TNC CODE OF CONDUCT AND TECHNOLOGY TRANSFER CODE OF CONDUCT TAKE POSITION THAT SUCH ARRANGEMENTS MUST NOT BE DIRECTED ONLY TO TNCS, BUT SHOULD ALSO BE DIRECTED TO GOVERNMENTS.

(B) SECOND PARAGRAPH COMPOUNDS MISTAKE OF FIRST PARAGRAPH. OBJECT OF CODE OF CONDUCT IN VIEW OF US AND OTHER DEVELOPED COUNTRIES IS NOT ONLY TO "IMPROVE (TNL) CONTRIBUTIONS TO INTERNATIONAL ECONOMIC RELATIONS" BUT ALSO TO IMPROVE "THE CONDITIONS UNDER WHICH THESE CORPORATIONS OPERATE." THIS PHRASE MUST BE INCLUDED IN PARA 2 IF IT IS TO BE ACCEPTABLE TO US. BUT OUR PREFERENCE IS TO DELETE PARA 2 ENTIRELY, AS ITS CONTENTS ARE LARGELY REPEATED IN PARA 4. US DEL SHOULD PROPOSE RESTRUCTING OF THESE PARAS AS FOLLOWS:

-- PARA 2 IS DELETED.

-- PARA 4 FOLLOWS PARA 1, WITH FIRST SENTENCE OF PARA 4 MODIFIED TO READ AS FOLLOWS: "THE DRAFTING OF A CODE OF CONDUCT SHOULD HAVE PRIORITY IN THE TASKS OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS."

-- PARA 3 THEN FOLLOWS NEW PARA 2.

(C) FIFTH PARAGRAPH, DEALING WITH INFORMATION, PRESENTS A NUMBER OF COMPLEX ISSUES AND IS AN AREA RELATED TO TNCS WHERE VIEWS OF EC AND US ARE NOT NECESSARILY THE SAME, WITH SOME COUNTRIES WITHIN EC TENDING TO LIMITED OFFICIAL USE

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PAGE 03 STATE 099388

FAVOR BROAD ACCESS TO CORPORATE INFORMATION. THE EXACT MEANING OF PARAGRAPH IS ALSO OBSCURED BY INCLUSION OF LANGUAGE DEALING WITH TECHNICAL COOPERATION AND BY POOR DRAFTING AND WE ARE NOT CERTAIN WHETHER EC TEXT IS AIMED AT INTERGOVERNMENTAL AGREEMENTS IN EXCHANGE OF INFORMATION RELATING TO TNCS (WHICH WOULD BE A NEW CONCEPT, EXCEPT IN CONTEXT OF TAX AGREEMENTS AND SOME RBP AGREEMENTS) OR OBLIGATIONS ON THE PART OF TNCS TO SUPPLY INFORMATION TO GOVERNMENTS. UNTIL EC POSITION MADE CLEAR, US DEL CANNOT ASSOCIATE ITSELF WITH TEXT ON INFORMATION. US DEL CAN PROPOSE FOLLOWING LANGUAGE TO G-8 IN CONNECTION WITH TECHNICAL COOPERATION AGREEMENTS, STATE THAT THIS IS AS FAR AS US DEL IS PREPARED TO GO AT THIS MOMENT, AND REQUEST DETAILED EXPLANATION OF INTENT AND MEANING OF ENTIRE EC PARAGRAPH. "COUNTRIES PARTICIPATING IN THE CIEC SHOULD ESTABLISH (OR, ALTERNATIVELY, "AGREE ON THE IMPORTANCE OF ESTABLISHING") APPROPRIATE ARRANGEMENTS FOR THE IMPLEMENTATION OF

TECHNICAL COOPERATION PROGRAMS, IN ORDER TO ASSIST COUNTRIES, IN PARTICULAR THE DEVELOPING COUNTRIES, IN FORMULATING AND IMPLEMENTING NATIONAL OBJECTIVES AND PRIORITIES RELATING TO TNCS".

(D) RESTRICTIVE BUSINESS PRACTICES (NEXT TO LAST PARAGRAPH). THIS LANGUAGE IS DRAWN ALMOST VERBATIM FROM THE LEAD PARAGRAPH OF SECTION III OF UNCTAD RESOLUTION 96 (IV). THEREFORE, WE CAN GENERALLY ACCEPT THIS FORMULATION. HOWEVER, IT SHOULD BE NOTED THAT WE JOINED WITH JAPAN AND SWITZERLAND IN SUPPORTING AN AUSTRALIAN STATEMENT OF INTERPRETATION AT UNCTAD IV ON THIS ITEM. IN THAT STATEMENT WE CLEARLY ASSERT THAT THERE MUST BE AN EFFECT ON INTERNATIONAL TRADE WITH REGARD TO ANY INTERNATIONAL "ACTION" OR "MEASURE" ON RESTRICTIVE BUSINESS PRACTICES. IN OTHER WORDS, THE EFFECT ON ECONOMIC DEVELOPMENT OF LDCS IS NOT RPT, NOT LIMITED OFFICIAL USE

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PAGE 04 STATE 099388

THE DETERMINANT. THEREFORE, THE USDEL SHOULD INSERT THE WORD "THUS" BEFORE "THE ECONOMIC DEVELOPMENT OF THESE COUNTRIES" IN THE LAST LINE OF THE EEC DRAFT. THIS CLEARLY LINKS RBPS TO EFFECTS ON TRADE RATHER THAN TO A DIRECT EFFECT ON DEVELOPMENT. THE US DEL MIGHT ALSO HAVE AS BACKGROUND THE FACT THAT WE CLEARLY STATED IN THE SAME STATEMENT OF INTERPRETATION THAT ANY RBP PRINCIPLES SHOULD BE VOLUNTARY. THIS SHOULD BE KEPT IN MIND IN THE EVENT THE G-19 INTRODUCES LANGUAGE THAT GOES THE OTHER WAY.

(E) ILLICIT PAYMENTS - LAST PARAGRAPH. ANOTHER AREA WHERE EC INTERESTS ARE DIVERGENT FROM OURS. US DEL MUST INSIST THAT REFERENCE BE INCLUDED TO ILLICIT PAYMENTS TREATY, BY ADDING AT CONCLUSION OF EC LANGUAGE, THE PHRASE "AND TO ELABORATE THE SCOPE AND CONTENTS OF AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS IN ACCORDANCE WITH ECOSOC RESOLUTION 2014."

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Sent Date: 02-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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Format: TEL
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Handling Restrictions: n/a
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Legacy Key: link1977/newtext/t197705102/aaaadksz.tel
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